

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 83 of 1997

in

COMPANY PETITION No 28 of 1987

WITH

COMPANY APPLICATION NO.215 OF 1996

IN

COMPANY PETITION NO.28 OF 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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STATE BANK OF INDIA

Versus

O.L. BHARAT SURYODAYA MILLS

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Appearance:

MR RM DESAI for Petitioner

OFFICIAL LIQUIDATOR for Respondent No. 1

MR DS VASAVADA for Respondent No. 2

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CORAM : MR.JUSTICE R.BALIA.

Date of decision: 24/06/97

## ORAL JUDGEMENT

1. This Company Application No.83/1997 has been moved by the State Bank of India, Ahmedabad, who is the secured creditor of the company in liquidation i.e. Bharat Suryodya Mills Co. Ltd. for realising their securities and to discharge company's liability.

2. As per the the say of the applicant, since there is no possibility of restarting the Mills, so on realisation of the assets, the creditors and workers may be paid their dues in accordance with the priority and for that purpose, a sales committee may be constituted. They have also requested that the inventory of the assets may be prepared and be got valued through Government Approved Valuer to be appointed from the penal maintained in the office of Official Liquidator for the purpose of effecting the sale and for that purpose, he may be permitted to incur necessary expenses out of the funds of the company lying with the Official Liquidator.

3. Mr.R.M.Desai, learned counsel appearing for the secured creditors State Bank of India and Mr. Vasavada, learned counsel appearing for the Textile Labour Association have no objection if such permission is given to the learned Official Liquidator and the sales committee be constituted with the representatives of the secured creditor, textile labour association and the official liquidator.

4. Since after making of the order of winding up, no proposal has come up for restarting the company in liquidation, the submissions of the learned official liquidator appear to be justified, for possibility of restarting of the company is not there and the only way out is to complete the winding up proceedings and realise the assets of the company and disburse the same to them in accordance with their priorities.

5. In these circumstances, it is directed that the Official Liquidator is permitted to sale the assets of the company and for that purpose, sales committee be constituted consisting of the representatives of State Bank of India and Textile Labour Association with the official liquidator to be the convenor of the said committee.

6. This committee shall do the needful for selling the assets of the company including the assets over which the abovenamed Institutions viz. S.B.I. have charge.

No member of the committee shall be entitled to any remuneration for attending the committee meetings or discharging the function as the member of the sales committee. The committee shall take appropriate decision with regard to the mode and the manner in which the assets are to be sold so as to secure the best price of the assets. It would be open for the committee to have resort to Expert's advice in the field of textile industry. The sale shall be subject to the confirmation by this Court. The sale proceeds shall be deposited with the learned Official Liquidator which shall be kept in separate account. The Official Liquidator is permitted to incur such expenses as are necessary to enable the committee for carrying out the sale of the assets of company. This shall include obtaining report about valuation of various assets of the company from the approved valuer on the panel of Official Liquidator for the purpose of determining upset price in endeavour to secure best prices.

7. In view of the aforesaid, Company Application No.83/97 and Company Application No.215 of 1996 stand disposed of.

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